



Public Notice

**U.S. Army Corps
Of Engineers**

Galveston District

Permit Application No: _____ 21520(Revised)

Date Issued: _____ 04 April 2002

Comments Due: _____ 04 May 2002

**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND
TEXAS NATURAL RESOURCE CONSERVATION COMMISSION**

PURPOSE OF PUBLIC NOTICE: To inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

AUTHORITY: This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

APPLICANT: Port of Houston Authority
P.O. Box 2562
Houston, Texas 77252-2562
Telephone 713/670-2592
POC: Charles D. Jenkins

LOCATION: The project is located along the Bayport Ship Channel, approximately 30 miles southeast of downtown Houston, in the City of Pasadena, between the cities of Shoreacres and Seabrook, in Harris County, Texas. The project can be located on the U.S.G.S. quadrangle maps entitled: League City, Texas and Bacliff, Texas. Approximate UTM Coordinates: Zone 15; Easting: 305000; Northing: 3277000.

PROJECT DESCRIPTION: The applicant proposes to develop a major marine terminal complex on approximately 1,081 acres, along the south side of the Bayport Ship Channel. This development would include facilities for docking, loading and unloading container and cruise ships, container storage areas, an intermodal yard, warehousing facilities, and properties available for light-industrial development. The purpose of this public notice is to provide additional information regarding the jurisdictional impacts of the proposed project and present some project revisions that are proposed by the applicant. This public notice addresses the application for a Department of the Army permit and does not extend the comment period on the Draft Environmental Impact Statement (DEIS) that was published on 12 November 2001. The comment period on the DEIS ended on 13 March 2002.

In response to comments received during the Public Workshops and Hearing held in November and December 2001, The Corps has re-evaluated the proposed project site, based on new information, and determined that additional jurisdictional areas exist. The total jurisdictional area that exists within the project site consists of 18.3 acres of jurisdictional wetlands and approximately 310 acres of open water habitat. Twenty-three and a half acres of the open water area would be impacted by the construction of the bulkhead/wharves for the cruise terminal. All of the jurisdictional wetlands are proposed to be filled during the construction of the project. In addition, approximately 114.5 acres of non-jurisdictional wetlands exist within the proposed project site.

The applicant has revised their original application to relocate a proposed berm to a location between the City of El Jardin and the proposed cruise terminal to provide additional buffering for noise, light and aesthetic impacts (Sheet 2).

The applicant has also revised the application to include information on the vegetation proposed to be planted on the entire berm along the southern edge of the project site (Sheets 16 and 17). A 75-foot wide area between the southern berm and Pine Gully is also proposed, as a buffer area.

In addition, the applicant has revised the application to include the construction/ maintenance of three outfall structures into Pine Gully on the southern edge of the project site (Sheets 5 – 8). Outfall one already exists and will require the placement of additional riprap to prevent erosion of the gully. Outfall two already exists and will not require any additional erosion protection. Outfall three would be a new outfall and would require riprap to prevent erosion within the gully.

The application has also been revised to include the construction of a 20-foot pre-cast concrete wall along the northern edge of the Bayport Channel between the channel and the North Shore Communities to buffer the potential noise impacts of the project (Sheets 18 and 19). Loblolly pine trees would be planted along the north side of the wall as a noise buffer and aesthetic amenity.

Finally, the applicant has revised the proposed project to include the utilization of impact noise reduction systems on all wharf crane spreader bars proposed to be utilized on the project site to reduce the potential noise impacts during loading, offloading, and maneuvering of the containers.

NOTES: This public notice is being issued based on information furnished by the applicant. This information has not been verified.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the Clean Water Act (CWA).

OTHER AGENCY AUTHORIZATIONS: Texas Coastal Zone consistency certification is required. The applicant has stated that the project is consistent with the Texas Coastal Management Program goals and policies and will be conducted in a manner consistent with said Program.

STATE WATER QUALITY CERTIFICATION: This project would now result in a direct impact of greater than three acres of waters of the state or 1500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Natural Resource Conservation Commission (TNRCC) certification is required. Concurrent with U.S. Army Corps of Engineers (Corps) processing of this application, the TNRCC is reviewing this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TNRCC, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TNRCC a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Natural Resource Conservation Commission, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TNRCC's Austin office. The complete application may be reviewed in the Corps office. The TNRCC may conduct a public hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

NATIONAL REGISTER OF HISTORIC PLACES: The staff archeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties:

The proposed project has been initially reviewed for potential impacts to historic properties. To date, a cultural resources investigations (Prewitt & Associates Report No. 45, January 2000) has been conducted for the existing facility and including the proposed expansion property area. The results of the investigation indicate that certain portions of the facility project area contain the potential for having prehistoric and historic sites - with at least three historic sites, 41HR831-833 having been identified for the project area. However, the proposed mitigation site has not been fully investigated for potential impacts to both recorded and potential archaeological sites - and will have to be fully considered in the review process for this project. In addition, our records indicate that the likelihood is not

high for the proposed project to encounter significant historic shipwreck sites given the previous dredging and development in the area; however, the proposed permit action does include work within Galveston Bay state tracts that are listed sensitive for potential historic shipwrecks. Therefore, all project plans under this permit will have to be fully addressed and resolved for potential impacts to both terrestrial and underwater cultural resources in consultation with the COE and SHPO archaeological staff.

THREATENED AND ENDANGERED SPECIES: Preliminary indications are that no known threatened and/or endangered species or their critical habitat will be affected by the proposed work.

ESSENTIAL FISH HABITAT: This notice initiates the Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action would not have a substantial adverse impact on Essential Fish Habitat or Federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-330, the Regulatory Programs of the Corps of Engineers, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, consideration of property ownership, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an

Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps of Engineers may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: The Corps held a public hearing regarding the proposed project and the DEIS on 12 December 2001. The public hearing was held at the George R. Brown Convention Center, at 1001 Avenida de las Americas, in Houston, Harris County, Texas. Prior to the close of the comment period any person may make a written request for an additional public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues are substantial and should be considered in the permit decision. If an additional public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before **04 May 2002**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should be submitted to:

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